

News Release



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U.S. Labor Department Sues to Recover \$165,000 for Roanoke, Alabama 401(k) Plan

ATLANTA - The U.S. Department of Labor has sued bankrupt Terry Manufacturing Company Inc. of Roanoke, Ala., and two company officers and trustees of its 401(k) plan, for failing to remit and timely forward approximately \$165,000 in employee contributions and interest to the plan.

“Trustees of a 401(k) plan have a responsibility to ensure that the assets of the plan are used solely to benefit participants,” said Ann L. Combs, assistant secretary of labor for employee benefits security. “One of the most important responsibilities is putting money from workers’ wages into their 401(k) accounts on time.”

Filed in U.S. District Court in Montgomery, the suit alleges that the company and former plan trustees Roy Terry and Rudolph Terry, violated the Employee Retirement Income Security Act (ERISA) between Jan. 1, 2001, and July 7, 2003. The suit charges that the defendants failed to separate some \$140,000 in employee contributions from the assets of the company and to pay interest on any delinquent contributions, resulting in total losses to the plan of approximately \$165,000.

The suit asks the court to require the defendants to restore all losses with interest and to permanently bar them from serving as fiduciaries for any plan covered by ERISA.

Prior to filing for bankruptcy in July 2003, Terry Manufacturing produced uniforms and other products. The 401(k) plan, sponsored by the company, had 350 participants and assets of approximately \$133,000 as of June 2004.

Employers with similar problems who are not yet the subject of an investigation by the Employee Benefits Security Administration (EBSA) may be eligible to participate in the department’s Voluntary Fiduciary Correction Program (VFCP). Participation in the program requires employers to correct all violations but allows them to avoid EBSA enforcement actions and civil penalties as well as any applicable excise taxes. For more information about the VFCP, see www.dol.gov/ebsa.

The suit followed an investigation by EBSA’s Atlanta regional office. Employers and workers can contact the regional office at (404) 562-2156 or EBSA’s toll-free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector pension and health plans. In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families.

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(Chao v. Terry Manufacturing Company, Inc.) Civil Action No. 3:05cv 764

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